19

Department of

OFFICE

STATION

No. 177

Dated

25 JAN

Pages in the file

(SUBJECT.)

A1548

Ref. A1.2107/39. South Arcot Collector's Camp, Coonoor, 23rd March 39.

From

Khan Bahadur Sharif Ahmed Ali Sahib Bahadur,
Collector of South Kanara.

To

The Secretary to the Board,
Land Revenue & Settlement,

Sir,

Village Officers - appointments &c. - Procedure to be followed - Instructions solicited.

*****

I solicit the Board's orders in the matter of the registry of minors and appointment of deputies and in regard to property qualifications in connection with the appointment of village officers in this district.

Reg. 1/No VII 2. Under B.S.O.No.156, the village offices in this district are not governed by statute and are non-hereditary.

852 - do - But in actual practice, B.S.C.No.148 which deals with the appointment, selection and removal of village officers who are governed by statute is to a great extent followed particularly in regard to the rules of succession, registration of minors and appointment of deputies &c. The hereditary character of the offices of Patel and Shanbhogue was maintained under a proclamation issued by the then Collector in 1833 referred to in B.P.No.4194 L.R., dated 9.7.1892 in which is quoted a previous B.P.No.6108 Lis., dated 25.10.1890 laying down a general rule for the Collector's guidance in dealing with claims to village offices in the district, that in the absence of personal disqualification the next heir of the original office-holder should be selected for appointment.

P 41-43. (R)

3. In 1907 a question was raised as to whether -------

succession to non-hereditary village officers should pass finally from the original family on the dismissal from the office of a member of that family and the Board of Revenue in its Resolution No.90, dated 28.3.1907 held that the claim of heredity should be adhered to as far as possible and that the family of a dismissed village officer should not as a rule forfeit such claim, unless the dismissed man has been guilty of misconduct of a serious nature. Subsequent to this, however, the Board was pleased to issue orders giving the Collector discretion to pass orders as he thought equitable in the matter of appointments of village officers on the ground that the provisions of the Act (III of 1895) did not strictly apply to this district,- please see B.P.Mis.2735, dated 11.9.1929 and B.P.Mis.Contdl. No.1237, dated 26.3.1935.

PP 85-86. (K)

P.3 of (S)

4. As the hereditary principles are generally followed, succession is determined by the general custom of primogeniture governing succession to impartible estates as laid down in paragraph 4 of B.S.O.No.148 and in the absence of adult heirs in the family minors are registered and deputies appointed under paragraph 9 of B.S.O.No.148. The question now for consideration is whether the practice of registering minors and appointing deputies which applies only to hereditary tracts should be continued. The practice of the registration of minors and the appointment of deputies selected by the minors' guardian is found to cause great hardship to several incumbents who have to be ousted from the posts held by them, temporarily simply because the guardian's choice does not fall on them inspite of the fact that they count a long service. The object behind the rule giving the choice of the deputy to the guardian of the minor as enunciated in B.P.No.Mis.1289 L.R., dated 19.11.1921 is obviously to ensure that the deputy looks after the interests of the minor as it is to his deputy that the minor has to look for his education in the duties of the post which he is eventually

PP 853-854 850 Vol III

P.855 850 Vol III

PP12-13 (71.)

to hold. There are many cases where minors reside elsewhere with their parents and such minors cannot have the benefit of any coaching from the deputies. Most of these minors do not choose to join the posts and some of them seek higher education and employment elsewhere with the result that minor after minor, is registered in succession and a stranger virtually holds the place all through. The administrative rule in question enables the guardians of minors to traffic in this post and actually to sell the deputyship to the highest bidder and this is the main allegation in almost all appeals which come up before the Collector in the matter of appointment of deputies. The Revenue Divisional Officers have no option but to follow the administrative rule as laid down in paragraph 9 of B.S.C. No.148 quoted above. The point is why, when the District is not a hereditary tract, the practice of appointing deputies nominated by the minor's guardian should be strictly followed when there is proof that the minor is not residing in the village to receive the training from the deputy and that the nomination is the result of trafficking in the post. There is actually a memorial of deputies and of acting shanbhogues of the Karkal Taluk complaining about this practice and praying for the abolition of this practice which encourages this sort of speculation. The question of abolition or extension of the hereditary right of village officers is now perhaps under the consideration of Government as in connection with a reference from Government there was the Board's Refce.A.No.3070/37-1, dated 26.11.1937 in which I have remarked that there is no real need to continue the hereditary appointments. I submit that the proper thing to do would be to abolish the registration of minors and the consequent appointment of deputies. I also notice that no authoritative registers are maintained in this district as in hereditary tracts for registering these minors and watching their coming of age. In Malabar which stands

more or less on a par with South Kanara in regard to the non-hereditary nature of village offices, the registration of minors and the appointment of deputies are forbidden. All that is done there is that vacancies are filled, preference being given to the members of the family of the last permanent holder. I request that the Board may be pleased to issue orders abolishing the present practice of registering minors and appointing deputies so that the principles followed in Malabar may likewise be followed in this district.

5. Another matter which with the passing of time and the increase in defalcations has assumed considerable - importance and deserves serious consideration is the question of property qualifications for village headmen. The earliest B.P. available on the point is B.P.L.R.No.335 dated 3.9.1896. At that time the question of taking security from village officers was raised and the Board held that there was no rule or law under which security could be demanded. At the same time the Board impressed on Collectors the necessity of selecting, as far as possible, men who possess some property of their own on the ground that it was undesirable that a headman should be dependent solely on the emoluments of his office. For non-hereditary tracts the Board directed that, as a general rule, a man possessed of no property would be unfit for appointment as the head of a village.

(Section 4 dealing with this separately

In 1922 a case arose in this district in which the Collector asked a permanent headman to produce security; but the Board remarked in B.P.No.1611 dated 20.4.1923 that the Collector's order was opposed to B.P.No.335 dated 3.9.1896 quoted above. When the question was once more raised in 1927 the Board again passed orders in its Proceedings Mis.No.445 dated 17.2.1927 that there were not sufficient grounds for departing from the existing practice of not taking security from village headmen. There was yet another case in 1932 in which the Collector cancelled the Revenue Divisional Officer's order appointing a headman who was registered for the office,

(7)

given to Section (C.904/39)

on the ground that the headman had no property. The Board in its proceedings Mis.No.3521 dated 29.11.32 again held that the Collector's order was wrong, observing that the claims of the heir of the last office holder have to be recognised whatever his property qualification may be. This is of course in consonance with the principles laid down in para 11 of B.S.O.No.155. There were, however, some ---- modifications in the subsequent orders. In connection with a reference from the Collector of West Godaveri the Board passed orders Ref.A.3464-32-1 dated 5.11.32 that though insolvency is not a disqualification for appointment to a village office, it is a ground for removal from office. In 1934 there was a case of embezzlement of a large amount of land revenue collections by the Patel of Kodavur village, Udiri Taluk of this District and as a result of this the Board issued an amendment to para 11 of B.S.O.No.155 by ---- adding a note that insolvency is a sufficient cause for the removal of a village officer from office -vide Board's Ref... C.2338/34-5 dated 5.11.34. In its Proceedings Mis.Conf. No.1237 dated 26.3.35, the Board gave discretion to the Collector in this district in the matter of removing village headmen who are personally involved in debts. In B.P.Mis. No.3609 dated 31.8.1926 the Board further ordered that not only insolvency but also heavy indebtedness, seriously interfering with the proper discharge of the duties of the office may be regarded as 'incompetency' justifying the removal of a village officer from office. There was actually a case in this District in which the registered minor was refused permission to join the post of Patel on the ground that he had no property and subsequently the Collector ---- declared this post as non-hereditary and directed the Revenue Divisional Officer to appoint the best man available in this office Proceedings D.Dis.703/38 dated 3.6.38. An heir of his family has appealed to the Board against the order and the appeal which was referred to the Collector in Board's Memo. No.A.5247/38 dated 9.11.38 and was reported on in this offi...

12 pp 33-36 (M)

D.Dis.7697/38 dated 23.12.38 and is now pending final orders. There was also another case in which the Collector, Mr.Wells did not permit a member of the family of the last office holder to be appointed on th ground that he did not possess any --- property. The Board in its Proceedings Rt.No.4897 dated --- 6.8.30 refused to interfere with the Collector's Order D.Dis. 1403/30 dated 11.7.30 in this case. It will thus be seen that no consistent or uniform principle has been followed in regard to the question of property qualifications at the initial ---- appointment. There are numerous cases where the Revenue Divisional Officers have appointed persons in spite of the fact that they lacked the requisite property qualifications, merely because they had no option except to follow the hereditary principle. Even persons with debts are appointed permanently because they are/the most eligible heirs and have not been declared insolvent. The posts of Patels in former years were coveted not because of the pay attached to them but because of the prestige and influence which they commanded in the villages. The patels of the present day however mostly depend on the pay of the post for their maintenance and the Board is no doubt aware of the frequent cases of embezzlement which have occurred in this district in recent years in which it was not possible to recover the amounts misappropriated by the Patels for want of personal property owned by them. It is needless to emphasise the fact that it is highly undesirable to appoint a man of no property as a village officer and on grounds of sheer expediency there can be no serious objection to adopt in this district which is non-hereditary the general rule applicable to non-hereditary tracts, that a man possessed of no property should not be appointed as the head of a village even though he is the next heir or a member of the family of the last holder

p. 21. (L)

pp 7-11. (L)

otherwise.?

N

I notice from a reference just received by me,-vide Board's Ref.904-39-1 dated 27.2.39,- that the Board has taken up for consideration this question in connection with the defalcation of Government monies by the patel of Vorkady. The general question has been dealt with at some length

C. 904/39

above. I shall submit a separate report in regard to the specific questions raised in the Board's reference. Meanwhile I request that the Board will be pleased to give its earnest consideration to the various points mooted by me in this report.

Collector.

28.3.3?

HR/28.3.

A 1548/39

List of Papers Put up.

B.P. Mis 3857 d 13.12.37	(A)
" Mis 3181 d 9.11.38	(J)
" Mis 1489 d 31.5.39	(E.1)
" Mis 2910 d 18.10.38	(X)
" Mis 133 d 12.1.39	(T)
" Mis 1490 d 31.5.39	(M)
" Mis 3009 d 31.8.36	(U)
" Mis 3521 d 29.11.32	(V)
" Mis 2733 d 11.9.29	(S)
" Mis 403 d 2.2.37	(L)
" Mis 2858 d 17.8.36	(Z)
" Mis 4194 d 9.7.1892	(R)
" Press 335 d 3.9.1896	(F)
" " 90 d 28.3.1907	(K)
" " 44 d 29.5.28	(D)
" Rl. 509 d 4.2.38	(E)
" " 5181 d 6.11.37	(C)
" " 2518 d 20.6.38	(O)
" " 4897 d 6.8.30	(L.1)
" " 2287 d 22.5.39	(C.2)
Act VII of 1930	(T.1)
BP. Mis 1289 d 19.11.21.	(F.1)

S.I.R

Village officers (S Kanara)
Appointment etc. Procedure
to be followed - Hereditary
principle - continuance - ordered

Ref No. 1

From the Collr of S Kanara
H-2107-38 & 23.3.38.

01-7cf

B.P. No. 177 dt 18/4/38.

The Board consider
that the officials, now
only by the Collector are
no more than are met
with in other districts where
village officers are e.
hereditary. ~~& has been held~~ held
previously) that the hereditary system
has advantages, & should
continue. ~~The Govt have~~
~~also acquiesced in this~~
~~view~~.

Is S.O. required?

The Collector is
informed that the
present system of treating
the village officials in
Kanara & as, if they
were hereditary though
legally they are not, should
continue.

~~Collector, Ellore~~
Kanara. WS/MD 15-1-40

2/

~~2/ The Collector will forward~~

to 2/ The Warrant to take

Security from Village Headmen

in the S. Kanara D^t is ~~forwarded~~

under the Consideration 7/4

Addl. Orders will issue subsequently

Pn

5

(81-17)-11

To the Collr. of S. Kanara

2/11

1911

on the part of the guardians of such minors to traffic in the deputies posts every time a minor is registered

P.3. cf

4/ The question of abolishing the hereditary system in the S. Kanara district was considered from time to time but every time it was allowed to remain undisturbed. Attention is invited to B.P. No 3875 d. 12.11.37 which contains ~~an elaborate discussion~~ a narration of the historical aspect of the question and wherein it was held that it was unnecessary to try to change the system unless the hereditary principle of succession itself was abolished throughout the Presidency. When in 1937, the Govt took up the general question of either abolishing or retaining the hereditary system throughout the Presidency, the Collr S.K. who was asked to report in the matter recommended its abolition in the district. However, having regard to the consensus of public opinion, the Board recommended to the Govt the continuance of the system where it already existed but expressed its aversion to its being extended to districts where it did not already exist.

(A)

V.1. cf (X)

P .3. cf (X)

Pp 101-102 (X)

379-380 (X)

b381 cf (X)

(Mis 133 / 12.1.39)

the Govt eventually recorded the papers, this was apparently because they were themselves not inclined to introduce a change in the existing practice. The Board has also in recent individual cases of village officers from the district, held that the system should remain undisturbed, in fact, should be strictly followed. In view of these facts, the system may perhaps be allowed to continue in the district. Fr orders. (T)

P.5 N7. (J)
P.9 N7 (E.1)

5/ As regards the question of property qualification raised by the Colly in para (5) of his letter, this being part of the longer, hereditary system, the Colly's suggestions would stand or fall, according as whether the system itself is, or is not, allowed to continue in the district. According to B.S.O. 155 (11):

P.4 CF

P.86 Bks VOL III

It is desirable that village headmen should be men of some property, but poverty is not a legal disqualification under either Act II of 1894 or Act III of 1895. If the next heir to a hereditary post of village headman, though a man of no means, is otherwise qualified,

he must be appointed. × × ×"

This is the rule with regard to hereditary and statutory posts of V.O.s. to village offices to which the hereditary principles of succession apply. Now, having regard to the fact that the same rules ~~do~~ apply to village offices posts in the S. Kanara district, and having regard to the ~~fact that~~ observation of Mr. Austin in a recent S. Kanara case that the (hereditary) system, if followed, must be strictly followed", it stands to reason that an heir in the line of succession should not be overlooked simply because he has no property and simply because of the apprehension that such an heir might misappropriate Govt money. In fact, while insolvency is no disqualification for appointment to a village office, it is also not a ground for removal of a person from a V.O. post, according to G.O. No. Ms 1937 d. 29.7.39 that being so, the Coll's suggestion that a man possessed of no property should not be appointed as a headman even though he is the next heir or a member of the family of the last office holder,

P. 9 N 7. (E1) wanting

P.I.Cf. i/c 511/39 (subd. separately)
P.6 Cf (letter

would not appear to be sound so long as the principles of hereditary succession are observed in the district. If there is ground for apprehension that a propertyless V.O. is likely to misappropriate Govt money, sufficient security may be ~~or~~ taken from him as is being done in Malabar. The question of taking security is being dealt with in the C. Section separately. See in O^n 6

So, on the 2nd point also, it is submitted that the Collrs proposals with regard to property qualification of V.Os in his district, would stand or fall according as whether the hereditary system is allowed to continue or not. (this question has been dealt with in paras 1 - 4 N7. above) PP 4-6 C.

I

For orders

Allen
26.8.39.
WS
22/9

I have known instances that his next heir who has no property has been passed over in some cases on that ground. It is better to ascertain his practice as actually followed.
4/30/39

P 1-7 cf

From the collector of S Kanara A-1548-39 of 23-3-39

M 2

A 5 (LR) thro' Sec for 6/11/40

The points that have been raised by the collector are:-

(1) ~~Why~~ whether the existing practice of registering minors & appointing Deputies in S. Kanara Dt ~~should not~~ has to be continued ~~be abolished, as it~~ inspite of the fact that it has been found to cause great hardship;

P 2 cf Para 4

2) why persons ~~graduates~~ of no property qualification, should be appointed as headmen, merely because they are otherwise eligible under the rules of hereditary succession

P 3 in M cf P 6 cf

The village offices in the S. Kanara Dt. are non hereditary & non-Statutory. Inspite of that, the principles of hereditary succession including the registry of minors & appointment of Deputies are being observed rigidly for over a century ~~in~~ from 1833. In 1938 there was a general proposal to abolish the hereditary principles throughout the presidency. The Board then called for reports from all the Collectors, municipal Councils, Rev Boards etc & on perusing the report considered that the practical advanta

P 2-8 M/b (A)

(X)

P 379 cf (X)

of the hereditary system, far outweigh its alleged disadvantages & recommended to grant the continuance of the system though the Collector of S Kanara had reported that there was no real need to continue the system in his Dist. The Govt recorded the papers apparently because they were not inclined to introduce a change in the existing practices. Further in recent cases arising in the Dist the Board has held that the system should remain undisturbed. In view of these facts, the system of registering minors & appointing Députis may be allowed to continue in the Dist, the Govt may be informed accordingly.

P 44 Pf (X)

P 1 Cf (T)

(J) + (E1) – Since removed

With Atty Gen

In regard to the second point, it is submitted that, it is in accordance with BSO. 155 - Para 11 very desirable that the village headmen should be men of some property but poverty is not a legal disqualification, under either Act II of 1894 or III of 1895. If the regular heir to a hereditary post of village headman though a man of no means is otherwise qualified, he must be appointed & that for non-hereditary posts of village headmen men of property should always be selected if possible. As already stated though village offices in S Kanara Dist. are non-hereditary

187
10.1

BSO vol III P 869

BSO vol III P 869 - Para 11 - Last Sentence

a non-statutory, the principles of the system are being followed. Hence it is submitted that an heir in no line of succession should not be over looked simply because he has no property. In the circumstances, the Collector's suggestion that persons possessed of no property should not be appointed does not appear to be sound, so long as the principles of hereditary succession are observed in the Dist. The Collr. may be informed that the existing practice should continue

Per orders

ND
16/12/38
OUS
24/12

2/ the question whether it is desirable to insist on security from the Village Headsmen in the S.Kanara dist is dealt with separately in correspondence. The file is in circulation

Sh
Dy Sec
10.1

Notes from p 7 N.F. may kindly be read

12

The difficulties pointed out by the Collector are no more than are met with in other Districts where there are hereditary village officers. It has been held by the Bombay High Court that hereditary system has not been abrogated by the Bombay Act and therefore the Government acquiesced in this view. The Collector may be told that

The present system of checking
has which Mr S. Kawara
and the key-boy have been using since B
he left, they are not shown
Continuous

SMR
12.1.40

Mr Chatterjee's reference of
date March '39. The first
Mr's note emanated in
August '38 & brought the
two correlates in January
The delay of 10 months in
dealing with this matter
Since the order needed is that
no change need be made
in Syed's discharge Note
by Mr Gupta I thought that Mr A.S
with to check such files
are regularly checked & delays
not allowed to continue

SMR
12/1/40

SECY.
12 JAN 1940

Speak to explain
CB/12.1

ASLR)
Thro' Sec
15/1

HSLR)
Draft submitted
15-1-10

With regard to ASLR)'s notes at the bottom of P.10 N.F., it is submitted that this is one of the 12 old papers left in the seat of Addl. A.S. is aware of the enormous Steam in which the Section has been working to clear off these papers besides attending to current receipts In these circumstances, the delay was unavoidable. The current papers are not delayed.

15/1

Necessary two weeks time may be granted to finalise the draft and send it to the Addl. Secretary

Draft seen and may be approved

[signature]